

REMARKS

Status of the claims:

With the above amendment, claim 1 has been amended and claims 9 and 10 have been canceled. Claims 1-8 are pending and ready for further action on the merits. No new matter has been added by way of the above amendment. Entry of the amendment and reconsideration in light of the following remarks is respectfully requested.

Rejections under 35 USC §112, second paragraph

Claims 1-10 have been rejected under 35 USC §112, second paragraph as being indefinite. The Examiner asserts that it is unknown what is excluded in the term "crosslinking assistant". This language has been omitted from the claims. Accordingly, it is believed that the rejection has been obviated. Withdrawal of the rejection is respectfully requested.

Rejections under 35 USC §§102/103

Claims 1, 2, and 6-10 have been rejected under 35 USC §102(b) as being anticipated by Osborne '895 (US Patent No. 4,895,895) or in the alternative claims 1-10 have been rejected under 35 USC §103(a) as being unpatentable over Osborne '895.

Claims 1-10 have been rejected under 35 USC §102(b) as being anticipated by, or in the alternative under 35 USC §103(a)

as being unpatentable over Van Gasse '234 (US Patent No. 5,212,234).

These rejections are traversed for the following reasons.

Present Invention

The present invention discloses a molding composition comprising (A) a fibrous material, (B) a crystalline unsaturated polyester, (C) a non-crystalline unsaturated polyester, and (D) a radical generator. The composition does not contain styrene.

Disclosure of Osborne '895

Osborne '895 discloses a thickened molding composition comprises fibrous reinforcement, an ethylenically unsaturated polymer, a monomer copolymerizable therewith and a crystalline unsaturated polyester having a glycol component derived from at least two symmetrical glycols. Preferably, the crystalline polyester of Osborne '895 has a molecular weight per double bond of no more than about 210 and a melting point of from 50°C-115°C.

Osborne '895 fails to disclose any examples wherein the composition does not contain styrene.

Disclosure of Van Gasse '234

Van Gasse '234 discloses a molding compound based on thermosetting resin material and optionally fibers, fillers,

curing catalysts and further usual additives. The molding composition is characterized in that the molding compound comprises a mixture of at least two thermosetting resins of which a first resin is in a partly cured state, and of which a second resin is not, or less than the first resin in a partly cured state.

Van Gasse '234 fails to disclose any examples wherein the composition does not contain styrene.

Removal of the Rejections over Osborne '895 and Van Gasse '234

Applicants assert that the anticipatory rejections over Osborne '895 and Van Gasse '234 are inapposite. There are no examples in either Osborne '895 or Van Gasse '234 that disclose a composition that does not contain styrene as is claimed in the instantly claimed invention. Thus, to arrive at the instant invention, the Examiner has to "pick and choose" from non preferred embodiments from the references to arrive at the instant invention. Accordingly, the anticipatory rejections are inapposite.

Applicants assert that the obviousness rejections over Osborne '895 and Van Gasse '234 are also inapposite. Applicants have shown that the instant invention demonstrates unexpectedly superior properties over the disclosures of Osborne '895 and Van Gasse '234.

In particular, the instant invention does not suffer from the drawbacks of smell and safety that are present in a composition that contains styrene. The Examiner asserts that it would have been obvious to use monomers other than styrene, such as acrylate or diallyl phthalate to overcome the art recognized problems of styrene. Neither Osborne '895 nor Van Gasse '234 mention problems regarding the smell when styrene is a part of the composition. If Osborne '895 and Van Gasse '234 were aware of the problems with the smell of styrene they would have avoided using it. However, neither Osborne '895 nor Van Gasse '234 have any examples with a composition that does not contain styrene.

Further, the Examiner asserts that there are alternative monomers mentioned other than styrene (col. 3 lines 33-37 in Osborne '895 and col. 3, lines 4-9 in Van Gasse '234) in the references. However, both Osborne '895 and Van Gasse '234 mention these as alternative monomers that can be used and do not disclose or remotely suggest that any of these monomers are superior to any of the others. Applicants, on the other hand, have demonstrated that a composition that does not contain the smell and safety problems associated with compositions containing styrene are unexpectedly superior to those that contain styrene. For these reasons, an obviousness rejection

over Osborne '895 and Van Gasse '234 is inapposite. Withdrawal of the rejections is warranted and respectfully requested.

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that a passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

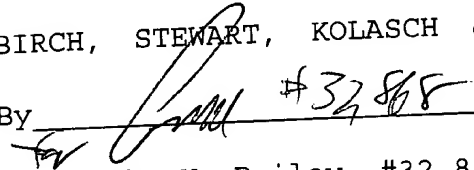
If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

 #32,881

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

JWB/TBS/crt

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 9 and 10 have been canceled.

Claim 1 has been amended as follows:

1. (Twice Amended) A molding composition comprising (A) a fibrous material, (B) a crystalline unsaturated polyester, (C) a non-crystalline unsaturated polyester, and (D) a radical generator, and

wherein said composition does not contain styrene [or a crosslinking assistant that causes a smell or safety problem].